

By: Hilderbran

H.B. No. 3842

Substitute the following for H.B. No. 3842:

By: Solomons

C.S.H.B. No. 3842

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of statements of ownership and location for manufactured homes to certain lienholders without the consent of the owners of those homes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter E, Chapter 1201, Occupations Code, is amended by adding Section 1201.2077 to read as follows:

Sec. 1201.2077. ISSUANCE OF STATEMENT OF OWNERSHIP AND LOCATION TO CERTAIN LIENHOLDERS WITHOUT OWNER'S CONSENT. (a) This section applies only to a manufactured home:

(1) that is eligible for conversion from personal property to real property under this subchapter;

(2) that, together with the real property to which the home is attached, was intended to secure a first lien mortgage loan that has gone into default and is now subject to foreclosure; and

(3) for which the person who made the first lien mortgage loan and the borrower-owner, at the time of the making of the mortgage loan executed documents that evidenced their mutual intent for the owner-borrower to have converted the home to real property and granted a first lien on that real property, including the manufactured home, to secure that mortgage loan.

(b) A holder or servicer of a mortgage loan that seeks to foreclose a first lien on a manufactured home described by Subsection (a) that now seeks to foreclose such a lien may apply

1 without the consent of the borrower-owner for the issuance of a new  
2 statement of ownership and location that reflects an intent to  
3 convert the home from personal property to real property. An  
4 application under this section must include an affidavit from the  
5 holder or servicer making the application that:

6 (1) contains the election described by Section  
7 1201.2055(a);

8 (2) states that it had been the intent of the  
9 owner-borrower to convert the manufactured home to real property  
10 and grant the maker of the mortgage loan a first lien on the  
11 manufactured home, together with the real property to which it is  
12 attached;

13 (3) states that the borrower-owner failed to convert  
14 the manufactured home to real property;

15 (4) that the holder of the mortgage loan advanced loan  
16 proceeds to or for the benefit of the owner of the manufactured home  
17 in reliance on the owner's carrying out the conversion of the  
18 manufactured home to real property and granting the holder a first  
19 lien on that manufactured home together with the owner's interest  
20 in the real property on which it is located; and,

21 (5) that the holder or servicer of the mortgage loan  
22 giving the required affidavit has, despite reasonable efforts, been  
23 unsuccessful in contacting the owner of the manufactured home to  
24 have them re-execute and deliver the required documents to convert  
25 the manufactured home to real property as originally contemplated.

26 (c) Not later than the 15th working day after the date of  
27 receipt of the completed application and subject to Section

1 1201.2075, the department shall issue a new statement of ownership  
2 and location reflecting that the manufactured home has been elected  
3 as real property and the mortgage loan holder or servicer who  
4 applied for this statement of ownership and location may make the  
5 necessary filings and give the necessary notices to complete the  
6 process of converting the manufactured home to real property as  
7 provided in Section 1201.2055.

8         SECTION 2. This Act takes effect immediately if it receives  
9 a vote of two-thirds of all the members elected to each house, as  
10 provided by Section 39, Article III, Texas Constitution. If this  
11 Act does not receive the vote necessary for immediate effect, this  
12 Act takes effect September 1, 2007.